



Senate

General Assembly

File No. 611

February Session, 2018

Substitute Senate Bill No. 479

Senate, April 19, 2018

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY FOR PERSONS PROVIDING MEDICAL ASSISTANCE OR INTERVENTION IN A CHILD ABUSE OR NEGLECT CASE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17a-101e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2018, and*
3 *applicable to any civil action pending on or filed on or after said date*):

4 (a) No employer shall (1) discharge, or in any manner discriminate
5 or retaliate against, any employee who in good faith makes a report
6 pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103,
7 testifies or is about to testify in any proceeding involving child abuse
8 or neglect, or (2) hinder or prevent, or attempt to hinder or prevent,
9 any employee from making a report pursuant to sections 17a-101a to
10 17a-101d, inclusive, and 17a-103, or testifying in any proceeding
11 involving child abuse or neglect. The Attorney General may bring an
12 action in Superior Court against an employer who violates this

13 subsection. The court may assess a civil penalty of not more than two
14 thousand five hundred dollars and may order such other equitable
15 relief as the court deems appropriate.

16 (b) Any person, institution or agency which, in good faith, (1) makes
17 [, or in good faith does not make, the] a report pursuant to sections
18 17a-101a to 17a-101d, inclusive, and 17a-103, or (2) provides
19 professional medical intervention or assistance in any proceeding
20 involving child abuse and neglect, including, but not limited to, (A)
21 causing a photograph, x-ray or a physical custody examination to be
22 made, (B) causing a child to be taken into emergency protective
23 custody, (C) disclosing a medical record or other information pertinent
24 to the proceeding, or (D) performing a medically relevant test, shall be
25 immune from any liability, civil or criminal, which might otherwise [be
26 incurred or imposed] arise from or be related to the actions taken
27 pursuant to this subsection and shall have the same immunity with
28 respect to any judicial proceeding which results from such report or
29 actions, provided such person did not perpetrate or cause such abuse
30 or neglect. The immunity from civil or criminal liability extends only to
31 actions done pursuant to this subsection and does not extend to the
32 malpractice of a medical professional that results in personal injury or
33 death.

34 (c) Any person who is alleged to have knowingly made a false
35 report of child abuse or neglect pursuant to sections 17a-101a to 17a-
36 101d, inclusive, and 17a-103 shall be referred to the office of the Chief
37 State's Attorney for purposes of a criminal investigation.

38 (d) Any person who knowingly makes a false report of child abuse
39 or neglect pursuant to sections 17a-101a to 17a-101d, inclusive, and
40 17a-103 shall be fined not more than two thousand dollars or
41 imprisoned not more than one year or both.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>July 1, 2018, and applicable to any civil action pending on or filed on or after said date</i>	17a-101e
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JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill provides and eliminates immunity from civil or criminal liability for specified categories of employees. To the extent that this modification changes criminal sentencing, the bill results in a criminal the bill results in a potential savings or cost. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,900¹ while the average marginal cost for supervision in the community is less than \$700² each year.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of offenders.

¹ Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

² Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

OLR Bill Analysis**sSB 479*****AN ACT CONCERNING IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY FOR PERSONS PROVIDING MEDICAL ASSISTANCE OR INTERVENTION IN A CHILD ABUSE OR NEGLECT CASE.*****SUMMARY**

This bill provides immunity from civil and criminal liability to any person, institution, or agency that, in good faith, provides professional medical intervention or assistance in any proceeding involving child abuse or neglect. The bill's immunity applies to liability that might otherwise arise from or is related to actions such as:

1. causing a photograph, x-ray, or physical custody examination to be made;
2. causing a child to be taken into emergency protective custody;
3. disclosing a medical record or other information pertinent to the proceeding; or
4. performing a medically relevant test.

The bill also eliminates current immunity from civil or criminal liability for any person, institution, or agency that, in good faith, does not report suspected child abuse or neglect or alleged sexual assault of a student to the Department of Children and Families (DCF) or law enforcement as required or permitted by law (see BACKGROUND). The bill retains immunity for a person, institution, or agency that, in good faith, makes such a report and applies the immunity to civil or criminal liability that might otherwise arise from, or is related to, making the report. Currently, this immunity applies to civil or criminal liability that might otherwise be incurred or imposed.

Under the bill, the immunity from civil or criminal liability for providing medical intervention or assistance or making a good faith report does not extend to medical malpractice that results in personal injury or death.

EFFECTIVE DATE: July 1, 2018, and applicable to any civil action pending or filed on or after that date.

BACKGROUND

Mandated Reporters of Child Abuse and Neglect

By law, certain professionals (e.g., school employees, health professionals, coaches) are designated as mandated reporters of child abuse and neglect. As such, they must report to DCF or law enforcement within prescribed timeframes when, in the ordinary course of their employment or profession, they have reasonable cause to suspect or believe that a child (1) has been abused or neglected, (2) has an injury that is at variance with its given history, or (3) is at imminent risk of physical harm. The law permits a mandated reporter acting outside of his or her professional capacity, or anyone else who has reasonable cause to suspect or believe that a child is in danger of being abused or has been abused or neglected, to report to DCF or law enforcement.

The law also requires any school employee to report to DCF or law enforcement when, in the ordinary course of his or her employment or profession, he or she has reasonable cause to suspect or believe that a student is the victim of sexual assault and the perpetrator is a school employee.

Related Bill

SB 240, reported favorably by the Judiciary Committee, also eliminates current immunity from civil or criminal liability for any person, institution, or agency that, in good faith, does not report suspected child abuse or neglect or alleged sexual assault of a student to DCF or law enforcement as required or permitted by law.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (04/04/2018)